IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

UNITED STATES OF AMERICA,

Plaintiff,

v.

ORDER

12-cr-43-wmc

RALPH LANG,

Defendant.

This case is before the court for a determination of defendant Ralph Lang's mental competence. Pursuant to 18 U.S.C. §4241(d) and for reasons explained below, I find that Lang is mentally competent to stand trial.

By way of background, the government alleges that on May 25, 2011, Lang accidently discharged a handgun at a local motel; when police responded, Lang explained that he had come to Madison to shoot abortion doctors at a local clinic because they were killing babies. *See* dkt. 6 at 3-4. On May 26, 2011, the United States Attorney charged Lang in a criminal complaint with attempting to violate 18 U.S.C. § 248, the Freedom of Access to Clinic Entrances Act. *See* dkt. 1. The grand jury subsequently indicted Lang on a charge of unlawfully attempting to injure, intimidate and interfere with persons participating in a federally funded program, 18 U.S.C. § 245(b)(1)(E), and on an intertwined firearms charge under 18 U.S.C. § 924(c)(1)(A)(iii). *See* dkt. 40. The State of Wisconsin has filed criminal charges against Lang arising out of the same alleged conduct.

Because of Lang's unusually strong and deep religious beliefs—among them, that God, Jesus and the Virgin Mary actually have spoken to him and touched him—Lang's legal competency under 42 U.S.C. § 4241 has been examined, re-examined and contested from the

date of his arrest forward, by both state and federal authorities. In the instant case, Lang's attorneys filed the motion for a competency determination based on their reported difficulties persuading Lang to stop fixating on what courts would call his "deific decree"[1] and to focus more tightly on defending against his secular criminal charges. *See* dkts. 15 and 16. What followed was over a year of examination and evaluation by a series of mental health professionals in a variety of locations, a state court finding that Lang was incompetent, soon superseded by its finding that Lang had been restored to competency, a competency hearing in this court and briefing by the government and the federal defender.

Notwithstanding the seemingly contrary language of § 4241(d), the parties agree that it is the government's burden to prove by a preponderance of the evidence that Lang *is* competent. *See, e.g., United States ex rel. Bilyew v. Franzen*, 686 F.2d 1238, 1244 (7th Cir. 1982). The parties—and all of the experts—agree that whatever Lang's mental condition, he understands the nature and consequences of these federal criminal proceedings against him, *see, e.g.,* dkt. 60 at 14. The dispute is whether Lang "is presently suffering from a mental disease or defect to the extent that he is unable . . . to assist properly in his defense." § 4241(d). This second prong of the competency test, asks "whether defendant has sufficient present ability to consult with his lawyer with a reasonable degree of rational understanding." *United States v. Salley*, 246 F. Supp. 2d 970, 977 (N.D. Ill. 2003). "Cooperation with counsel has been described as 'the capacity to provide whatever assistance counsel requires in order to explore and present an adequate defense." *Id.* (citation omitted). In *Salley*, the court explained:

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[1] For a discussion of deific decrees, *see Wilson v. Gaetz*, 608 F.3d 347, 354 (7th Cir. 2010); *Lundgren v. Mitchell*, 440 F.3d 754, 784-96 (6th Cir. 2006) (Merritt, J., dissenting).

> Components of such capacity necessarily include . . . understanding the nature and possible consequences of the proceeding. In relation to cooperation with counsel, these capacities are put to the test, particularly when defendant is faced with choices whether to waive constitutional rights, such as to waive the right to counsel, to plead guilty or go to trial, to waive a jury, to cross-examine witnesses, and to testify in his own defense. Without the defendant's ability to appreciate and weigh information and advice, counsel cannot effectively fulfill his role as counselor. Finally, in order to cooperate with counsel, a defendant needs to understand the role of counsel, *i.e.*, that the attorney has authority to make decisions in the case (although the decision to waive constitutional rights ultimately rests with the defendant alone). Without this, the lawyer is placed in an untenable position of taking direction from a non-lawyer, who is not bound by oath and training to the principles that govern defense and trial of a case.
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> *Id.* at 977.

I have read and considered all of the evidence and arguments submitted by the parties. I have heard and seen three expert witnesses testify under direct and cross examination at an evidentiary hearing. There is evidence pointing in both directions on this question, as is clear from the examiners' reports (dkts. 25, 46-1, 53-2, 53-3, 53-6 54-6), the testimony from three examiners at this court's July 20, 2012 evidentiary hearing (dkt. 56), Lang's own testimony at the May 11, 2012 state court competency hearing (dkt. 53-8 at 17-21), the recording of Lang's interrogation by the police (dkt. 53-7) and Lang's handwritten note to his federal defender during our competency hearing (dkt.54-4). Taking all of the evidence into account, pursuant to 42 U.S.C. § 4241(d), I find by a preponderance of the evidence that Lang is able to assist properly in his defense, notwithstanding the mental disease or defect he suffers at this time.

The three expert witnesses directly involved in this federal prosecution offer differing opinions on the disputed point. Dr. Cynthia A. Low, Ph.D., a Forensic Unit Psychologist at

FDC-SeaTac, opines that Lang has schizophrenia, paranoid type, but currently is legally competent. Lang's retained expert, Dr. George Hough, Ph.D., a psychologist in private practice in Topeka, Kansas, opines that Lang has schizophrenia, paranoid type and is not currently competent. Dr. Laurence Trueman, M.D., a psychiatrist at the Mendota Mental Health Institute (MMHI) in Madison who was involved in treating Lang for the state and whom the government called as a witness in this case, opines that Lang does *not* have schizophrenia, but probably has a personality disorder, not otherwise specified (NOS), and that he is legally competent.[2] At the July 20, 2012 evidentiary hearing, Drs. Low, Hough and Trueman all explained their intersecting but differing opinions, with each acknowledging what the other experts had opined but each sticking with his or her diagnosis and opinion. I synopsize the three testifying experts' relevant testimony in the order in which they appeared at the July 20, 2012 hearing:

Dr. Trueman has worked at MMHI's Secure Assessment and Treatment Unit for about ten years and has conducted about 400 to 500 legal competency evaluations. During Lang's

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[2] Also in the record and considered by this court are the state court competency proceedings regarding Lang in Dane County Circuit Court Case No. 11-CF-935. In a July 1, 2011 report, Dr. Erik D. Knudson, M.D., a psychiatrist on contract with the Wisconsin Department of Health Services, opined that Lang had a psychotic disorder–NOS, but that Lang had substantial mental capacity to understand the proceedings and assist his defense at the time of the report. Dkt. 53-6. At a May 11, 2012 competency hearing, Lang testified that "right now I feel like I'm spiritually struggling . . . and so right now until I get prayed over, I feel like I'm on a level playing field or not moving forward or not moving up. And if you want to work on your case, you should try and move up. So I'm not prepared to go to trial right now because of my spiritual struggles." Dkt. 53-8 at 17-18.

Judge David T. Flanagan ruled from the bench that, given the age of Dr. Knudson's report, Lang's current self-assessment and the burden of persuasion imposed on the state, he was constrained to find that Lang was incompetent but capable of regaining competence with treatment (dkt. 53-8 at 30). This was followed by a June 26, 2012 report from Dr. Trueman to Judge Flanagan opining that, at that time, Lang did not have a mental disorder and that he had substantial mental capacity to understand the state criminal proceedings and to assist in his own defense. Dkt. 53-2. Dr. Trueman later modified his opinion as addressed elsewhere in the instant order.

admission to MMHI in June, 2012, Dr. Trueman interviewed Lang about five times and had regular input from MMHI's psychiatric care technicians who were in daily contact with Lang during stay at MMHI. Dr. Trueman's original opinion was that Lang did not have an identifiable mental illness, using DSM-IVTR criteria; after being allowed to read the other examiners reports and opinions, he changed his opinion to conclude that Lang may have a personality disorder, but that he did not meet the diagnostic criteria for schizophrenia. In all events, Dr. Trueman opined that Lang has substantial mental capacity to assist in his own defense.

Dr. Trueman noted that Lang participated in MMHI's "Competency Group" in which "he clearly understood the material and participated appropriately, didn't have trouble attending or concentrating and was not overly religious or difficult to keep on track with the topic at hand." Dkt. 56 at 30-31. During Lang's stay at MMHI, no one on staff charted that they had lengthy, confusing conversations with him; nobody charted that he had difficulty functioning on the unit. When Lang took the test called the MacArthur Competency Assessment Tool test, he stayed on task through the entire process, his answers to the questions were sophisticated, and he had no difficulty cooperation with the administration of the test. Dr. Trueman reported that he had spoken with Lang's defense attorneys in Lang's state case and they reported that Lang had been cooperating with them. Acknowledging that Lang's federal defenders reported difficulty communicating with Lang, Dr. Trueman conceded at the evidentiary hearing that Lang might have problems assisting his attorneys but "I just don't believe they rise to the level that would render him not competent." Dkt. 56 at 47.

Dr. Low has been a forensic psychologist at FDC-SeaTac since 2001, has performed "a few hundred" competency examinations and reports and has testified at over 30 competency hearings. During Lang's detention at SeaTac for evaluation from August to October 2011, Dr. Low met substantively with him three times for a total of five hours before Lang refused to meet with her any more and refused to take any more tests; she also had several brief conversations with Lang while she did rounds. Dr. Low also obtained input from the correctional officers who dealt with Lang on a daily basis and served as the 24/7 eyes and ears of SeaTac's examiners. Based on Lang's reports of his interactions with God, Jesus Christ and the Virgin Mary, which Dr. Lowe characterized as visual and sensory hallucinations and delusions, Dr. Low determined that Lang had schizophrenia, paranoid type, but that he was competent to stand trial. Dr. Low reported that:

> Mr. Lang didn't show any significant impairment in either prong. He had no difficulties understanding the nature or the consequences of the proceedings against him and I felt that there was no significant impairment in his ability to assist counsel in his defense.
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> Dkt. 56 at 64.

During Dr. Low's substantive meetings with Lang (one of which lasted three hours), she had no problems communicating with him:

> His thought processes were pretty clear, coherent or logical. There were times when he did get a little bit tangential, but it was very easy to redirect him. . . . I would simply say, let's go back and talk about X and he would do so.
>
> *Id.* at 66.

More specifically, when Dr. Low administered the Revised Competency Assessment Instrument (RCAI) to Lang, during the hour or so that this took "he was able to . . . focus very well on all

of those topics related to legal issues and he did not go off on any religious tangents at all." *Id.* at 67-68. It is Dr. Low's practice when administering the RCAI to look for fidgeting or distractions; she did not see any of this with Lang, who seemed able to focus and to answer the questions appropriately.

Dr. Hough is a clinical psychologist with a small private practice in Topeka Kansas. He met with Lang in the Dane County Jail to evaluate him for 2½ days in April 2012, with two follow-up examinations in July 2012. Dr. Hough spent more time one-on-one with Lang than any other examiner, but he did not have the benefit of input from other staff members interacting with Lang. During Dr. Hough's examination of Lang over these several meetings, Lang expressed strong delusional religious beliefs throughout the process, so that it was "an ever-present phenomenon in the room." Dkt. 56 at 81. Dr. Hough experienced with Lang "frequent derailment from the interview topic so that he would be talking about one thing and then suddenly talking about something else." *Id.* at 84. Dr. Hough volunteered that:

> Sometimes he could be redirected back to topic rather easily. Sometimes it took more difficulty. Sometimes there would be emotional back pressure behind some of his tangents such that the only way to really direct him back would be, you have to let it run its course a little bit. . . .
>
> And the degree to which one has to struggle to pull him back is also an indirect measure of the strength of the ideas that he is proffering at that moment. So the degree of struggle that's required ranges from minimal to quite an exertion and it varies over time.
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> Dkt. 56 at 85.

To the same effect, during cross-examination by the government:

> Q: And you would agree that on some occasions sometimes Mr. Lang will be able to work effectively with counsel to attend, focus, rationally weigh and sort complex and rapidly-shifting information in a court of law, correct?
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> A: Yes. I think it's fair to say that there can and will be times that he can do that.
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> Q: And sometimes not?
>
> A: And sometimes not.
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> Q: And you would also agree that when you had occasions when he kind of went off track, you were always able to redirect him?
>
> A: Yes, with more or less energy required.
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> Q: Sometimes his focus could be easily redirected, other times with some extra effort?
>
> A: Correct.
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> Q: But in each of those instances, even though you had to bust your butt a little bit, you got him to redirect?
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> A: It's a labor, yeah.
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> Dkt. 56 at 120-21.

In response to government questioning, Dr. Hough acknowledged that Lang was able to complete a battery of tests for Dr. Hough, demonstrating his ability, in a structured situation to remain on task for periods of time. Dkt. 56 at 104. Dr. Hough also acknowledged that at his state competency hearing, Lang took the stand and testified without derailing into delusional thinking. *Id.* at 117-18.

Nonetheless Dr. Hough's conclusion was that Lang's capacity to relate to counsel was flawed by his delusional thinking such that it rendered him incompetent. According to Dr.

Hough, although Lang liked his defense attorneys and wanted to help them, Lang's delusional derailment was so pervasive that he often would be off in his "other thinking," not fully present in court and not attuned to what was happening. This would prevent Lang from sharing information at trial or asking vital questions. Dkt. 56 at 89. The two-way filter of Lang's delusional thought process would dictate Lang's major and minor decisions in this case. *Id.* at 123. As a real-time example of this, during redirect examination, Lang's federal defender read aloud to Dr. Hough the written questions that Lang had prepared during Hough's testimony.[3] Dr. Hough characterized this set of questions as an example of Lang tracking the court proceedings from a perch inside his religious world in which he was immersed and with which he was preoccupied. Dkt. 56 at 126-27.

As a starting point, from all the evidence in the record, I find that Lang presently is suffering from a mental disease or defect as that term is used in 18 U.S.C. § 4241(d). The experts cannot agree on which mental disease afflicts Lang and the evidence is not clear enough for me to choose one of their diagnoses over another. For the purposes of this competency determination, it doesn't matter whether we call it schizophrenia-paranoid type, personality

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[3]Here is Lang's note, handwritten during the evidentiary hearing [all *sic*]:

> Dr. Hoff
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> You have kids. You were their for their births.
> 1.) How long did those, your child, remain in the womb before your wife gave birth?
>
> 2) Do you agree that human life starts an conception?
>
> 3) Do you agree that children are a gift from God?
>
> 4) Did your life start in your mothers womb 9 month before you were born. Theirby saying all life starts at conception.
>
> Dkt. 54-4.

disorder–NOS or psychotic disorder–NOS. The experts agree that Lang has been experiencing delusional thinking that exceeds what secular mental health experts deem normal, and we have no evidence from religious experts that would suggest that Lang's reported interactions with the divine should not be viewed as a mental disease or defect.

This is as good a place as any to note that Lang does not believe he is delusional and he is offended that anyone would think him mentally ill. With all respect for Lang's self-assessment, it does not outweigh reports and testimony of the psychiatrists and psychologists who have opined otherwise. To the same general effect, I do not find the difference of opinions between the experts as to how to categorize Lang's symptoms as a basis to discount any particular expert's testimony regarding Lang's competency. For all the testing and metrics involved, diagnosing mental illness remains fairly subjective, an observation that seems particularly true when trying to draw a useable line between religious fervor and delusional thinking.

This segues to a dispute between the parties that bears mentioning but ends up being immaterial to the court's competency decision. The government flirts with the contention that Dr. Hough and the federal defender are arguing that Lang is unable to assist properly in his defense because of his unyielding doctrinal beliefs, which, suggests the government, isn't any different from the irrational fervor displayed by more mainstream religious and political zealots. Lang, by counsel rejects this contention, arguing that Lang's intransigence is caused by his mental illness, which is the *sine qua non* of a § 4241 incompetency determination. Lang's distinction is legally correct, but is it factually supported in this case? Lang exhibits: (A) delusions and hallucinations; and (B) a religious opposition to abortion so fervid that he feels

obliged to shoot abortion doctors. There is no doubt that (B) is driven and fueled, at least in part by (A), but are they conterminous?

If Lang had exhibited (A) alone, then the examiners' diagnoses of a serious mental illness certainly would stand; if Lang had exhibited (B) alone, then would any of the examiners concluded that Lang had any serious mental illness?[4] Looked at from the other direction, we can be certain that Lang's mental illness is causing his delusions and hallucinations, because mentally healthy people don't experience these symptoms; but how certain can we be that his mental illness is causing his fixation with stopping abortion by violent means, a fixation shared by many people who are not mentally ill? Obviously Lang's delusions feed his opposition to abortion; Lang's deific decree was to do anything necessary to stop abortions. Even so, without meaning to split hairs, when is the last time a divine actor spoke to Lang or touched him? If Heaven has gone silent, then how can anyone now be sure that Lang's current thought process is fueled by his mental illness rather than fringe zealotry?

For instance, Lang tells his police interrogators that his belief that the bombing in the Mideast caused earthquakes in Japan is something that he heard on "Christian radio." *Listen to* dkt. 53-7 at 28:30-29:00. Lang's belief that God is causing earthquakes along an "abortion line" in the United States (*id.* at 30:00-31:00) is shared by other Christian fundamentalists, *see, e.g.*, www.Bibletoolsorg. During his interrogation, Lang cites as justification for killing abortion doctors the "Message" (he also calls it a book) from the Necedah Shrine, along with Lang's

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[4] *See, e.g., Matheny v. Anderson,* 377 F.3d 740, 748 (7th Cir. 2004)(defendant's "ludicrous legal positions" that frustrated his trial attorneys did not make him incompetent); *United States v. James*, 328 F.3d 953, 954-44 (7th Cir, 2003)(defendant's adherence to the beliefs of the Moorish Science Temple and his concomitant refusal to cooperate with his attorney did not render him incompetent).

interpretation of Ecclesiastes (*id.* at 40:30-42:00). The unusual nature of Lang's beliefs, which are held by others, is not a basis to find him incompetent. *United States v. James*, 328 F.3d 953, 955 (7th Cir. 2003). So it may be possible, on an intellectual and on a practical level, to disentangle (A) from (B) in Lang's thought process. In other words, it may be possible to disconnect Lang's mental illness from his persistent ideation that is causing his attorneys to assert that Lang is legally incompetent. Even so, none of the experts offered an opinion along these lines (although Dr. Trueman came the closest), so I will not make this finding *sua sponte.*

This ends up being immaterial because the preponderance of the evidence establishes that even if this court attributes Lang's religious preoccupation to his mental illness, Lang nevertheless is able to assist properly in his defense. Perhaps not 24/7, maybe not even eight hours a day, maybe not easily in every instance, but Lang *can* be redirected onto task. Every witness at the evidentiary hearing said so. The court finds from this that Lang is *able* to assist properly in his defense.

Lang's lawyers point to the note Lang wrote during Dr. Hough's testimony (n. 3, *supra*) to demonstrate how delusional Lang is, even during a court hearing. This court ordinarily eschews "sit and squirm tests," but Lang has invited it here, and a court may use observation to assist in making credibility determinations, *see Marantz v. Permanente Medical Group, Inc.*, 687 F.3d 320, 335-36 (7th Cir. 2012). So, what is the court to make of the fact that Lang did not write similar notes during the testimony of Drs. Trueman and Low? What is the court to make of the fact that only Dr. Hough seems to generate this sort of behavior from Lang? The most logical inference is that Lang was tracking appropriately during the first 2/3 of the hearing; in

any event, there is no indication in the record that his lawyers even attempted to obtain his input during the competency hearing, let alone received inappropriate or delusional responses.

After the hearing I watched and listened to Lang's police interrogation (DVD, dkt. 53-7). During fifty minutes of give-and-take with his questioners, Lang did not manifest any delusions, nor did he reference any delusions. As mentioned above, the off-kilter opinions Lang espoused he attributed for the most part to what he had heard on the radio and read in articles. More to the point in determining competency, the officers always were easily able to redirect Lang to the topics that interested them and to get Lang to answer their questions. (As already noted, the fact that many of Lang's answers were based on his bizarre belief system is not a ground to find him incompetent because these beliefs are shared by others. *James*, 328 F.3d at 955).

To the extent that Lang's attorneys are concerned about how they will ensure that Lang is tracking properly in this secular world during what they characterize as a fast-paced, unpredictable jury trial, this concern strikes the court as legitimate but perhaps overstated and, in any event, remediable.[5] First, most of the preparation will be done before trial, so that Lang's attorneys can spend as much time as they need to get his useable input in a slow-paced, less

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[5] As Lang points out in his brief, ultimately it is up to the court to merge the mental health evidence with the realities of federal criminal trial practice to determine if the defendant is legally competent to proceed. As the court of appeals stated in *Holmes v. Buss*, 506 F.3d 576, 581 (7th Cir. 2007):

> The petitioner's lawyer is incorrect in arguing that mental competence is an issue exclusively for psychiatrists and psychologists to opine on, not a legal issue for judges to opine on. The psychiatrist or psychologist is the expert on mental capabilities, but the judge is the expert on what mental capabilities the litigant needs in order to be able to assist in the conduct of the litigation, and so there are cases in which the district judge may properly find that a criminal defendant was competent even though the experts on mental functioning disagree with him.

stressful environment. The court will stretch out the trial date and interstitial deadlines to accommodate defense counsel in this regard.

Second, without intending to unfairly minimize Lang's role in his own trial, in this court's experience, criminal defense attorneys jealously guard their prerogatives as the tacticians and decision makers during trial prep and at trial.[6] If the defense team has enough time to prepare before trial, then once the trial begins, most of the important decisions already will have been made, so that consultation with the defendant in the "heat" of trial for spur-of-the-moment input is less important.

Third, there is no reason for this to be a "hot" trial. The court can run it as slowly and methodically as a patent trial on "strobed synchronization providing diagnostics in a distributed system," *see* U.S. Patent No. 6,745,323 B1, dkt. 1-2 in *Rockwell Automation, Inc. v. WAGO Corp.*, 10-cv-718-wmc. I am not making light of Lang's situation by comparing his criminal prosecution with a patent lawsuit: the point is that this court and Lang's trial judge are accustomed to and capable of running slow-motion trials, so that if Judge Conley determines that this trial actually has to proceed in first gear alone, then it will happen. If the court is constrained to try this case for only three or four hours a day to accommodate Lang's ability to track the proceedings and to assist his attorneys, then that's what the court will do. Other

[6] Having held over a hundred *ex parte* hearings mediating disputes between indigent defendants and their appointed attorneys, I can take judicial notice that the third most common complaint I hear from defendants is that their appointed attorneys won't do what they say, which invariably provokes counsel to respond that while the defendant is entitled to input on how to try the case, counsel will decide which motions to file, which witnesses to call, which exhibits to present and which defenses to tender. (#1 complaint: my lawyer is incompetent because s/he didn't get me a good enough plea deal from the government; #2 complaint: my lawyer never comes to see me and won't accept my phone calls from the jail).

accommodations, as necessary, will be provided to try this case within Lang's ability properly to assist.

Fourth, the government's evidence in support of its charges does not suggest that Lang's trial will be fraught with sudden or unexpected twists and turns. At this juncture it seems that the heart of the government's case is what Lang told Officer Dyer when she talked to Lang in his motel room and what Lang said during his recorded interrogation, with some fill-in by the motel clerk and perhaps a few Rule 404(b) witnesses. Right now, the most unpredictable element appears to be whether and how Lang might present an insanity defense under 18 U.S.C. § 17. Without intending to sound cynical, it is difficult to envision how Lang's asserted penchant for drifting into the thrall of his deific decree would harm any defense claim that Lang's mental illness rendered him unable to appreciate the nature, quality or wrongfulness of his acts on May 25, 2011.

Indeed, it seems common for defendants who have experienced deific decrees to raise an insanity defense, which implies a predicate finding of legal competence. For instance, Judge Merritt's dissent in *Lundgren*, 440 F.3d at 784, begins by string-citing 16 cases in which a deific decree was the basis of an insanity defense at trial. This means, of course, that each of these sixteen defendants was found competent to be tried notwithstanding his religious delusions. To the same effect, the court noted in *United States v. Waagner*, 319 F.3d 962 (7th Cir. 2003):

> Clayton L. Waagner says that after his daughter suffered a miscarriage, he heard a voice ask "how could [he] grieve so hard over this one when millions are killed, or murdered every year." Waagner said the voice, which only he could hear, belonged to God and that it went on to say "I have called you to be my warrior and I want you to go to war against the abortion industry." Describing himself as a "warrior for pre-born children," Waagner

> embarked on a what ultimately became a 2-year cross-country crime spree.
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> * * *
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> It is, of course, certainly not surprising that someone who claims to hear bizarre commands from God and then embarks on a massive crime spree has more than a few mental problems. And Waagner did. This became clear when he filed a notice of intent to raise an insanity defense to the charges against him. After filing his notice, the government requested a psychiatric examination . . . [the] diagnosis was adjustment disorder, delusional disorder grandiose type and antisocial personality order.
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> *Id.* at 962-63

At Wagner's trial, The examiner testified that delusional disorder grandiose type was "a severe mental disease and that he would not necessarily be able to appreciate the wrongfulness of his actions." *Id.* The jury ultimately rejected this defense, but the point here is that Waagner was competent to be tried in the first place.

So is Ralph Lang. To recapitulate, I find by a preponderance of the evidence that defendant Ralph Lang suffers from a mental disease or defect but he is not mentally incompetent. Lang is able to understand the nature and consequences of the proceedings against him and he is able to assist properly in his defense.

The clerk of court is directed to calendar a telephonic status conference at which we schedule further proceedings in this case.

Entered this 5th day of October, 2012.

BY THE COURT:

/s/

STEPHEN L. CROCKER
Magistrate Judge